

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION,

Plaintiff,

v.

T-MOBILE USA, INC.,  
Defendant.

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Case No. \_\_\_\_\_

Jury Requested

**PLAINTIFF'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Commonwealth Scientific and Industrial Research Organisation ("CSIRO")  
hereby for its Complaint against Defendant, T-Mobile USA, INC. ("T-Mobile"), alleges:

**THE PARTIES**

1. CSIRO is one of the largest and most diverse scientific research institutions in the world, and has a principal place of business at Limestone Avenue, Cambell ACT 2612, Australia.

2. CSIRO is informed and believes, and on that basis alleges, that Defendant T-Mobile USA, Inc. is a Delaware corporation with its principal place of business at 12920 SE 38th Street, Bellevue, Washington 98006. T-Mobile can be served with process through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

**JURISDICTION AND VENUE**

3. The court has subject matter jurisdiction pursuant to 28 U.S.C. § § 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § § 1 *et*

*seq.* Venue is proper in this federal district pursuant to 28 U.S.C. § § 1391(b)-(c) and 1400(b) in that T-Mobile has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling CSIRO to relief.

**INFRINGEMENT OF U.S. PATENT NO. 5,487,069**

4. On January 23, 1996, United States Patent No. 5,487,069 (the “‘069 Patent”) was duly and legally issued for inventions entitled “Wireless LAN.” CSIRO holds all rights and interest in the ‘069 Patent. A true and correct copy of the ‘069 Patent is attached hereto as Exhibit A.

5. Upon information and belief, T-Mobile has infringed directly and indirectly and continues to infringe directly and indirectly the ‘069 Patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of products practicing the IEEE 802.11a, 802.11g, 802.11n, and/or draft 802.11n standards. The accused products do not include those products practicing or implementing IEEE 802.11a/g/n and/or draft n standards solely through the use of Wireless LAN integrated circuits supplied by Intel Corporation. Defendant is are liable for infringement of the ‘069 Patent pursuant to 35 U.S.C. § 271.

6. The acts of infringement by T-Mobile have caused damage to CSIRO and CSIRO is entitled to recover from T-Mobile, the damages sustained by CSIRO as a result of its wrongful acts in an amount subject to proof at trial. The infringement of CSIRO’s exclusive rights under the ‘069 Patent by T-Mobile has damaged and will continue to damage CSIRO, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

7. Upon information and belief, T-Mobile has knowledge of its infringement of the '069 Patent, yet T-Mobile continues to infringe said patent. The infringement of the '069 Patent by T-Mobile is willful and deliberate, and with full knowledge of the patent, entitling CSIRO to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**JURY DEMAND**

8. CSIRO hereby demands a trial by jury on all issues.

**PRAYER FOR RELIEF**

9. WHEREFORE, Plaintiff CSIRO requests entry of judgment in its favor and against Defendant T-Mobile USA, INC. as follows:

- a. Declaration that Defendant has infringed the '069 Patent;
- b. Permanently enjoining Defendant, its officers, agents, employees, and those acting in privity with it, from further direct and/or indirect infringement of the '069 Patent;
- c. Awarding damages arising out of the infringement of the '069 Patent by Defendant, including enhanced damages pursuant to 35 U.S. C. § 284, to CSIRO, together with prejudgment and post-judgment interest, in an amount according to proof;
- d. An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and,
- e. For such other costs and further relief as the Court may deem just and proper.

Dated: February 26, 2010

Respectfully submitted,

/s/ Elizabeth L. DeRieux

S. Calvin Capshaw

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